

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

EMPLOYEES RETIREMENT SYSTEM OF THE
GOVERNMENT OF THE COMMONWEALTH OF
PUERTO RICO,

Debtor.

PROMESA

Title III

No. 17 BK 3566-LTS

**THE GOVERNMENT PARTIES' INFORMATIVE MOTION REGARDING THE
COURT'S MAY 6, 2019 ORDER [ECF NO. 493] IN CONNECTION WITH THE
MOTION OF CERTAIN SECURED CREDITORS OF THE EMPLOYEES
RETIREMENT SYSTEM OF THE GOVERNMENT OF THE COMMONWEALTH
OF PUERTO RICO FOR RELIEF FROM THE AUTOMATIC STAY**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States Magistrate Judge Judith G. Dein:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), as representative of the Commonwealth of Puerto Rico and the Employees Retirement System for the Government of the Commonwealth of Puerto Rico under the authority granted to it under Act 2-2017, as well as on its own behalf, through the undersigned counsel, submit this informative motion under the Court’s May 6, 2019 *Order on Motions to Compel* [ECF No. 493 in Case No. 17-bk-03566] (the “May 6, 2019 Order”) in proceedings concerning the *Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Relief from the Automatic Stay* [ECF No. 367 in Case No. 17-bk-03566] and respectfully state as follows:

1. Under the May 6, 2019 Order, the Government Parties are filing a document-by-document privilege log for all documents in Category 3 of the Government Parties’ April 12, 2019 categorical privilege log [Ex. B to ECF No. 443 in 17-bk-03566]. *See* Exhibit 1 to the *Declaration of Madhu Pocha, Esq. in Support of Informative Motion Regarding the Court’s May 6, 2019 Order* [ECF No. 493] (the “Pocha Declaration”).

2. In further support of the assertion of deliberative process privilege, the Government Parties are filing two supplemental declarations on the public docket for Case No. 17-03566: (i) the *Supplemental Declaration of Mohammad Yassin Mahmud in Support of Assertion of Deliberative Process Privilege by AAFAF*, and (ii) the *Supplemental Declaration of Philippe Mesa Pabón in Support of Assertion of Deliberative Process Privilege by the Commonwealth of Puerto Rico*. ERS is considering producing two documents over which it has asserted deliberative process privilege and will either produce them shortly or provide a more detailed declaration if necessary.

3. Under the Court's order, the Government Parties are also filing the Pocha Declaration to (i) explain that the Government Parties have not withheld any documents solely on attorney work-product grounds (Pocha Declaration ¶ 4); and (ii) provide additional information concerning Elías Sánchez Sifonte's service as the Governor's representative on the Financial Oversight and Management Board. As the Pocha Declaration explains, Mr. Sánchez served as Governor Rosselló's advisor and non-voting representative on the Oversight Board from January 2, 2017 until July 20, 2017. All the privileged communications in which Mr. Sánchez participated that appear on the Government Parties' privilege logs fall within that time period. Pocha Decl. ¶¶ 2-3.

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Dated: May 9, 2019
San Juan, Puerto Rico

/s/ William J. Sushon

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